IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

Crl.Rev.Pet.No. 839 of 1999

CRL.A.60/1993 OF SESSIONS COURT, MANJERI,
CC.439/1987 OF JUDL.MAGISTRATE OF FIRST CLASS COURT, TIRUR.
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PETITIONER/APPELLANT/ACCUSED:

E. RAGHAVAN, S/O. ARAMUGHAN,
ENNAYIL HOUSE.P.O., CHAMRAVATTOM.

BY ADV. SRI.N.A.MURALEEDHARAN.

RESPONDENTS/RESPONDENT/COMPLAINANT:
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1. **FOOD INSPECTOR, TIRUR MUNICIPALITY.**

2. **STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. C.K. SURESH.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21/06/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

Crl. R.P. No.839 of 1999

Dated 21st June, 2007

ORDER

The revision petitioner stands convicted for the offences under sections 16(`1)(a)(i) read with section 7(1)(iii) of the P.F.A. Act as amended by the Act 34 of 1976 and P.F.A. Rules 44(b) and 50 of 1955 and sentenced to undergo simple imprisonment for 6 months and to pay a fine of Rs.1000/- and in default to undergo simple imprisonment for 2 months.

2. The prosecution case is that the buffalo milk purchased by the Food Inspector from the accused on 28-9-1987 was found to be adulterated.

3. The contention raised by the counsel for the revision petitioner is that there was absolutely no evidence in the matter with respect to the mandatory requirement that the items such as milk that the same was stirred or churned before sampling. He has relied on the decision reported in **Food Inspector, M.C. Baroda v. M.R.Sharma** (AIR 1983 SC 176) that in the milk and milk preparations including curd, it is distinctly possible that the fat settles on the top and in order to find out whether the milk or its preparation such as curd has the prescribed

content, the sample must be homogeneous and representative so that the analysis can furnish reliable proof of the nature and content of the article of food under analysis.

2. As pointed out by the counsel for the revision petitioner, I find that Ext.P3 mahazar is silent as to the above aspect. The evidence of PW-1, the Food Inspector also contains no mention about the fact as to whether he has had stirred the milk.

In the circumstances, I find that it cannot be held that the prosecution has proved the allegation that the milk was adulterated beyond reasonable doubt. Hence, the conviction and sentence is set aside. The accused is acquitted.

The Crl.R P is disposed of accordingly.

K.R.UDAYABHANU, JUDGE.

Kvm/-